

**Assembly Bill No. 362**

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Passed the Assembly September 8, 2009

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*Chief Clerk of the Assembly*

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Passed the Senate September 2, 2009

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 490.2 to the Penal Code, relating to theft.

## LEGISLATIVE COUNSEL'S DIGEST

AB 362, Miller. Political signs: theft and damage.

Existing law generally establishes various offenses constituting theft.

This bill would make it a crime, except as specified, for a person to take, possess, damage, reuse, or move any political sign or signs without authorization from the owner of the sign or signs and with the intent to prevent, substantially alter, or substantially obscure the communication of the sign. The bill would make a violation of this provision punishable as an infraction or a misdemeanor, as specified, and would make a 2nd or subsequent violation a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding \$2,000, or both. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 490.2 is added to the Penal Code, to read:

490.2. (a) A person who takes, possesses, damages, reuses, or moves any political sign or signs without authorization from the owner of the sign or signs and with the intent to prevent, substantially alter, or substantially obscure the communication of the sign, is guilty of an infraction or a misdemeanor. Upon a second or subsequent conviction of a person under this section, the person shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding two thousand dollars (\$2,000), or both.

(b) For purposes of this section, the following terms apply:

(1) “Owner” means the campaign for which the sign was created, a purchaser of a sign, a person who received a sign as a gift, a person who has given permission for the placement of the sign on his or her property, or a person in lawful possession of property who has given permission for the placement of the sign on that property.

(2) “Political sign” means any sign displayed through the day of an election that advocates the election of a specific candidate for official office or advocates a position regarding a ballot issue or issues.

(3) The prohibition in subdivision (a) does not apply to a law enforcement officer, local government official, or authorized representative of the campaign for whom the sign was created, while acting within the scope of his or her official capacity, to a private property owner who has not given consent to the placement of a political sign on his or her property, or to a person in lawful possession of property who has not given permission for the placement of the sign on the property.

(c) Nothing in this section shall preclude prosecution and punishment under any other provision of law, including, but not limited to, theft and vandalism.

(d) This section shall not be interpreted so as to preempt any valid local ordinance regulating the time, place, or manner of the placement or display of a political sign.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved \_\_\_\_\_, 2009

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*Governor*